G. R. S. IX-5]

Previous references.

File No. 12 of 1896.

191

(~~Irines + Govt~~)

L. R

Serial Nos. Copies only

Later references.

0-44

30-45

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for August 1900

SUBJECT.

Claim of Sringere Mutt to Mineral Rights

(Only Copies of Correspondence)

W D 88—GPB—50,000—24-7-16

L.R.
12-96
818 30 — 45

I

Ruby mines

The Mate requested that the full rights of the Mate to the Ruby mines within the Jaghir, may be affirmed and arrangements be made for prospecting the whole jaghir.

Mineral rights of Jaghir to be confirmed by special grant.

Complete information having been received from the Supt of Inam Settlements as to the disposal of the Several claims, an office Note has been submitted —

In this Connection a draft Regulation extending the period within which claims should be preferred. is also pending — Commissioner will Consult the wishes Mate when he receives the Survey report and the Settlement will be introduced only if the Mate finds of advantage upon a comparison of present and future Revenue on Lands.

File put up (K.7.100-97.98) In this connection the whole question of claims to mineral rights should be subd: to Dewan. Reply awaited from the Inam Supt as to as regards certain other cases of claims preferred.

II

Survey Settlement.

That the Survey Settlement would be advantageous only if the present rates of assessment are not revised; but if instead of this, the extensive waste lands are assessed and comparative benefit shown in the total revenue, the Mate will sustain loss, by the introduction of Survey Settlement.

Deputy of the Supt's actually the same of present occupied

R.7.168 of 93 in re Survey and Inam Settlement of the Sringeri Jaghir was subd: to the Dewan on 8-6-99 with Inam Supt's letter No. 57 dated 9-2-99 in re Draft Rules for the Conversion into land inams, of paddy payments by allocation in the Jaghir. R.7146-92 in re Revenue powers to the Sringeri Jaghir, was subd: to the 2nd Councillor on 31-7-99 with Kadur Dy: Comr's letter No. 51 of 24-7-99 recommending that

III

Revenue powers of the Jaghirdar.

The Mate is given the power of conducting sales of land for the recovery of arrears of Revenue, subject to the Deputy Commissioner's sanction. Request that the power of confirming such sales may be granted to the Mate.

As far as had always last pro- Code, was the Mate Why was by Prop:

I can ascertain, the power in question been exercised by the Mate and the provisions of Section 99 of the Land Rev: intended to enable the Govt to allow to Continue to exercise the same power any change made in this matter dated 30th August 1892. It shows

		be looked into and rectified.		the Deputy Amildar of Sringeri may be authorized to hold sales for arrears of revenue in the Belvadi and other villages.
IV	Forest.			
	That the Forest Rules may be introduced into the Jaghir.	The mate i.e, rights rights by the	should enjoy the full Forest rights to all forests subject to private which should be settled and recorded by the Survey.	The file on this subject (No IV) which was in 1870 is submitted. A draft order declaring that the Forest Rules are in force in the Sringeri Jahagir prepared and forwarded for the Commr's approval.
V	Service letters			
	That the privilege of sending on Govt Service by Jaghirdar or his agent, all correspondence relating to the Jaghir may be granted. The mate enjoyed the privilege during the time of the Mysore Amildé depts. The Yelandur Jaghir enjoys this privilege.	This they now.	should be enquired into and if were franking before must do To be arranged on seeing records.	Copy of letter No 12 dt 9.4.1869 from the late Amildé Cutcherry to the Chief Commr shews that the Sringeri matt had been authorized to send letters on Govt Service to the Mem Dy Supdt + Asstt Supdt. Jakeed No. 2 dt 7.4.1869 from the late Amildé Cutcherry to the Sringeri Amildé Jumadar authorized him to despatch ~~all service~~ ~~on Govt Service~~ on Govt Service Covers ~~to the addressed~~ to the Amildar of Kadur + franked by the Sarvadhikaru of the Matt.
VI	Inam villages outside the Jaghir.			
(A)	The Inam villages in the Chickmagalur and Shimoga Talukds which are respectively 12 and 5 in number have been placed under two Sheikdars subject to the orders	When villages are settled, the powers should be conferred on the mate, under Section 99.		please see the note made against No III.

of the Deputy Amildar. Their revenue is Rs: 10,000/- in all. The Revenue powers granted to the Mate in respect of the villages, extend only to attaching the defaulters' property and reporting the matter to the deputy Commissioner for permission to sell the same. These powers are inadequate for the realization of this large amount of revenue. Request that under the last proviso of Section 99 of the Land Revenue Code, all the powers of a Dy: Comm^r^ except that of confirming a Revenue Sale may be granted in respect of these villages.

(b) The Mate has been granted full rights to the Sandal, Sayer, Excise revenue in these villages. But since the introduction of the tree-tax system, Inust the tax on the date trees is being credited to Govt^t^. Request that the same may be made over to the Mate

x Copy put up.

☆ go to Mail.

(6) Please see this office docket-
No: 4089 & 6th November 1897 in
Zu 148
wh. it has been directed that pending final settlement of Inamdars claim to Zoodi Revenue, the tree-tax on trees in the alienated villages should be credited to Govt: In accordance with this order, such tax of Sringeri Inam villages outside the Sringeri Jahagir proper is being credited to Govt: But in the case of Kelaudur Jahagir, the whole of the Zoodi Revenue (tree-tax &c) is being refunded to the Jahagirdar every quarter subject to further adjustment.

The General question of Inamdars claim to Zoodi Revenue is pending before the Secretary having been submitted on 20th January 1899.

Part V

Papers relating to

His Excellency Sir K. Sheshadri Iyer, K.C.S.I.,
Dewan of Mysore.

May it please your Excellency to take the following few lines to your Excellency's kind consideration;—

Some time ago certain rumours reached His Holiness the Sree Sringeri Jagadguru Swami that in certain places within the limits of the Sringeri Jaghir rubies would be found if mining operations were carried on there. Soon afterwards certain capitalists both in this country and elsewhere applied to His Holiness for the grant of prospecting Licenses preliminary to the grant of leases of the Ruby mines within the limits of the Jaghir. While His Holiness was still considering how such applications should be disposed of and in what manner the aid of the Mysore Government which has always taken a deep interest in all that concerns the welfare of the Jaghir should be sought and obtained regarding the grant of mining leases in the Jaghir, some persons appear to have represented by a petition to the Deputy Commissioner of Kadur that His Holiness granted the Ruby mining leases in the Sringeri Jaghir without having previously established as required in Section 38 of the Mysore Land Revenue Regulation the claims of the Jaghir to the mines in question. The Deputy Commissioner has forwarded the said petition to the Jaghir Amildar for report.

The Undersigned has been commanded by His Holiness to make a respectful representation to Government that His Holiness has all along understood that the Section of the Land Revenue Regulation above referred has no application to the Sringeri Jaghir which has from time out of memory enjoyed the privileges of an independent Jaghir of which your Excellency is well aware and to beg that the Government may be pleased to give His Holiness all such aid as it may deem suited to the present condition and the status of the Jaghir in the matter of

the disposal of the applications for grant of mining leases in the Jaghir, for which act of kindness His Holiness feels very greatly indebted.

Praying that the Government may be pleased to pass early and favorable orders in the matter the undersigned

begs to remain

Your Excellency's most obedient & humble servant,

Sd/ Srikanta Sastry

Agent of Sringeri Mutt.

Bangalore
30th August 1896.

CRJ

To

P.N. Krishna Murti Esqr.

There can be no doubt that the right to minerals within the Jaghir vests in the Mutt under the terms of the grants creating the Jaghir. There is also no doubt that the Mutt failed to take advantage of the procedure prescribed in clauses 3,4,5 and 6 of Section 38 of the Revenue Regulation and hence there has been no final adjudication of the claim and the claim under clause 7 is not now recognizable by any tribunal.

Under Clause (3) it was obligatory on the Mutt to have sought the adjudication provided, if it claimed the right in question. It has failed in this obligation and two questions therefore arise.

1st Has the Mutt's right determined and ceased by the default of the Mutt?

and 2nd If it has, is it a fit case for the State to re-grant the right thus lost.

Sd/- K. Sheshadri Iyer.

28-9-96.

From

The Deputy Commissioner, Kadur District.

To

The Secretary to Government, Genl. & Rev., Depts.

Dated 11th December 96.

No.355/1896-97.

Enclosure No.1

The Undersigned has the honor to forward for the information of Government a copy of his letter No.880 dated the 10th instant, addressed to the Secretary to Government, Geological Department, regarding the supposed existence of Ruby mines in the Jaghir of Sringeri.

Sd/- T. Weir,
Deputy Commissioner, Kadur District.

Let this be submitted to the Dewan.

Id/- C.S.
17-12-96.

4

Deputy Commissioner's Office, Kadur
District,
Chikmagalur, 10th December 1896.

From

T. Weir Esqr., C.S.,
Deputy Commissioner, Kadur District.

To

R. Bruce Foote Esqr., F.G.S.,
Secretary to Govt., Geological Department.

Sir,

During a recent visit to Sringeri, I was informed of the supposed existence of Ruby mines at a place distant about 1½ miles from the Town of Sringeri.

2. I was also shown the locality of the supposed Ruby mines and made a brief inspection of the site.

3. I was of course unable to form any opinion as to whether there was any good foundation for the view that the locality may contain rubies; but the Agent of the Jaghir produced and made over to me the four small stones which I send herewith and which he said were discovered at the spot and were supposed to be rubies. Many similar and better stones are said to have been found at the spot by villagers and others.

4. I shall be obliged by your acknowledging the receipt of the four stones and by your informing me if they are rubies, or if not, if they are stones having any commercial value.

5. I was also informed by the Agent of the Jaghir that the senior Geologist Dr. Evans had visited and inspected the site of the supposed mines.

6. If this is so and if you see no objection, I shall be glad -in view of the possible public importance of the subject- to be furnished with any information you may see fit to give,

as to the result of Dr. Evan's inspection.

I have &c.,

Sd/- T. Weir,

Deputy Commissioner Kadur District.

5

Matter for Council.

Subject.- Claim of Inamdars and Jodidars to a right to minerals in their Inam and Jodi villages.

Circulated to Councillors.

Sd/- C. Sreenivasiengar

8-7-97

Urgent.

For favor of being passed on from one Councillor to another until the circulation is completed.

Id/- C.S.

I would like to see the terms of the grant waving the question of limitation and regrant the right with such reservations and upon such terms and conditions as may be deemed proper.

A barred debt may not be claimable as a matter of right; but there is nothing to prevent the debtor spontaniously agreeing to pay the debt.

Likewise the Government may of their own accord regrant the right which in the case of this Jaghir is barred by limitation; that the question is, is it politic or expedient to do so. If, in one case, we allow an exception would it not create an inconvenient precedent and lead to numerous other applications which may now be barred, thereby making the section(38) in the Land Revenue Code a dead letter.

Sd/- T.R.A. Thamboo Chetty.
8-7-1897.

6

M E M O R A N D U M.

The Sringeri Guru claims a right to minerals in his Jaghir. The papers are before the 2nd Councillor.

Miss Anstey claims a similar right in certain Jodi villages in the Kolar District. Her title deeds have been called for.

The question for consideration is how these and other claims are affected by the provisions of Section 38 of the Land Revenue Code. Is an Inamdar bound to prefer his claim under clause (3) of that Section? Does his failure to do so extinguish his right otherwise admissible?

Sd/- C. Srinivasiengar,
Secretary.
16-6-97.

To Secretary -

The opinion of the Government Advocate should, I think, be first obtained and the same afterwards considered by Government.

I would refer to Government Advocate at once and ask for favor of early opinion.

Sd/- T.R.A. Thamboo Chetty,
17-6-97.

CRD

Office of the Govt. Advocate in Mysore.

No.176

Bangalore, 25th June 1897.

From

The Government Advocate in Mysore.

To

The Secretary to the Govt. of Mysore.

Sir,

With reference to your letter No.13676/M.2716, dated the 24th instant, I am of opinion that under Section 38 clause (3) of the Land Revenue Code, claims should be preferred within 5 years after passing of the Regulation (No.IV of 1888) and under clause 4 of the said section the claim is barred by Limitation if not made within the said period of 5 years.

2. Under section 6 of the Indian Limitation Act nothing shall affect or alter the period prescribed by any Special Law.

I have &c.,

Sd/- S. Ramaswamier,

Govt. Advocate.

CRW

8

M E M O.

The questions raised in the above Note(by the Dewan dated 28th September 96 on Sringeri Agent's letter, dated 30th August 96) are general questions affecting not only the Sringeri Mutt but also other Inamdars similarly circumstanced.

The first of them was discussed at the Council Meeting of the 1st instant and decided in the affirmative, while the second was reserved for further consideration. The point for decision is whether, in order to afford relief to this and other Inamdars who apparently in ignorance of the new law on the subject, have by default forfeited their right, each case may be specially dealt with by the State on its own merits, or legislative action may be taken with the object of extending the period prescribed for the institution of such claims and inviting by public Notification all claimants to prefer their claims within such extended period. If legislative action is decided upon, it would be necessary to lay down in specific terms the exact character of the claims which will be allowed to be brought forward for adjudication. "Inamdar" is a term which is somewhat vague and "holder of alienated land" though more definite, includes many who can have no possible claim to minerals. The concession of additional time to be given by the proposed new ~~rule~~ law should be restricted to the cases in which from the terms of the Sannad granting the Inam land it is evident that the grantor intended to transfer to the grantee the whole of the proprietory right in the land, without reserving for himself and his successors, expressly or by implication, the right to minerals.

The question whether legislative action as above is necessary and if so to what cases the proposed concession should apply, is one for which I would ask early consideration and decision by the Council.

Id/- K.S.

8-7-97.

The Land Revenue Code was duly published more than 8 years ago. Ignorance of law is no excuse. A very long period was allowed for Inamdars to prefer their claims and to have their right to minerals, if allowed by Sannad, recognized and registered. Claims not so preferred or ~~registered~~ are clearly barred. It is impolitic, if not unnecessary, to give further time. I would humbly deprecate legislation action as proposed on account of one or two claims that have been preferred after the prescribed time. As regards the paramount right of the sovereign to minerals I have already stated my views in my memo of 11th October 1884. This right has now become absolete by the Inamdars not having availed themselves of the provisions of section 38. I would not reopen the question, and thereby revive barred claims. The Land Revenue Code came into force on 1st April 1889. Five years, which was allowed from that date for Inamdars to prefer their claims, was a sufficiently long time, and up to this we have not had more than 2 claims, both of which are out of time. The reason why there have not been any claims within the prescribed time is given in the report of the select Committee para 13:- "It is very improbable that any grant or other instrument of transfer executed by Government would be found other than silent as to ~~minging~~ mining rights." This was the opinion of one of our oldest officer Col. Grant who has been both Survey and Inam Superintendent for a very long time. Under these circumstances why extend the time allowed by section 38, or why go through the force of legislating generally to invite claims already barred. Even in alienated villages the grant as a rule must have conferred only the right to produce, i.e every thing that belongs to the vegetable kingdom, but not the contents, i.e everything beneath the surface, such as mines and precious metals, which is always regarded as the property of the sovereign. Be this as it may, we have allowed the Inamdars sufficient time after the passing of the

Regulation to prefer their claims to the establishment of their right to minerals. They failed to do so. Why think of fresh legislation? In my humble opinion there is no ground good reason for such a step being taken. If it is intended to ~~grant any~~ bestow a special concession to the Guru of Sringeri Matt or any other individual, the sovereign or the Government is at liberty to do so either by waiving the right to minerals altogether or by improving any conditions or restrictions, with the approval if necessary of the Government of India.

Sd/- T.R.A. Thamboo Chetty,

8-7-97.

CCD

We have already decided that the Sringeri Mutt case is time barred.

This decision may, I think, be intimated to the Mutt.

It is neither necessary nor expedient, in my humble opinion, to alter the existing law for the sake of this single case. Why should we anticipate cases at all?

It does not seem to be a good policy to invite claimants, real or reputed, by fresh legislation, when no one came forward within the term of five long years allowed by the law which was passed after mature deliberation, and with the sanction of the Government of India.

Neither the Inam Settlement can be disturbed, nor can the Mysore Government grant away its right to minerals to any Inamdar, without reference to the Government of India, and it will be too inexpedient to make a reference now to that Government in regard to the Mutt case alone.

Bangalore,
9th July 1897.

Sd/- Abdul Rahman.

CRW

Mineral Rights.

I have given this subject my most anxious and careful consideration and have come to the conclusion that it is inopportune to move in this matter just now.

2. The Dewan has not been pleased to record his views, but as expressed more than once by him there can be no doubt that the provision regarding mineral rights was not known to many of the Inamdars and the result has in several cases been that of undeserved confiscation. From my ~~peculiar~~ position, I should not have given expression to this sentiment had not the Dewan himself repeated it more than once. An important law determining a particular class of rights ought not to have been ~~hugged~~ lugged in as a side provision in a Regulation, the avowed object of which was "to consolidate and amend the law relating to Revenue Officers and the Land Revenue in the Territories of Mysore". After it was passed it behoved the Government to give wide publicity to this provision by a special Notification calling the attention of those interested to the new procedure laid down and the important consequences attached to its default. This was not done.

3. I am not sure that the Inam investigation did not extend to this source of revenue. Our Code is based upon the Bombay Code and we find no provision there analogous to ours. There must be some law both in Bombay and Madras where the mining industry might have attracted as much attention as it has here on account of its recent development. Our land tenure and the Inam Investigation are not dissimilar to those of the British Provinces, and if we are to get any light it must be from them.

4. The Land Revenue Regulation came into force in April 1889, that is to say more than 8 years ago. The period within which these claims ought to have been urged expired in April 1894 and the minority had to be proclaimed only in 1895. The

question is whether in the absence of an urgent and a more widely spread call from the people the present provisional Government will be justified or warranted in dealing with this matter. I am inclined to think not.

5. If however it is deemed desirable to extend the time I would simply do so by an amending act and extend the time to a further period of one year, leaving the rest of the provisions as they are in the Revenue Code.

6. I would not deal with individual cases.

7. Regrants of such valuable rights are in my opinion out of question in the present minority.

Id/- P.M.K.

15-7-97.

12

With reference to Mr. Thamboo Chettiar's doubts as to whether any registry grants included mineral rights, I may add (Speaking from memory for I have not the papers), that the matter was years ago fully discussed by the British Government and that the final decision was in favor of regarding mineral rights as included, except when expressly excluded. In accordance with this decision grants of land, under the Wynaad and Nilgiri waste land Rules, were, I believe, held to include mineral rights. Our law, in section 38 of the Revenue Regulation, is far less liberal. I am mainly responsible for that law and I feel bound to bring forward some proposal for annulling the confiscation which has resulted under it, and I further think that the matter is one which cannot improve by being ~~defined~~ beyond the minority. It will be most invidious always to deal with individual cases, and it would be unwise to create inconvenient precedents by special concessions in particular cases. If we are convinced that a remedy is required, our duty is to provide it.

deferred.

Id/- K.S.

16-7-97.

CRD

13

The mining rights in Sringeri Jaghir.

1. This question was before the Council on more than one occasion, with reference to the special legislation I had suggested. Apparently no action either way has been taken.

2. The Secretary will please note below how the matter exactly stands now and send me the file to see.

3. I should like the very early disposal of this question.

Id/- K.S.

19-2-99

Office - Put up at once and without further delay.

Id/- C.S.

19-2-99.

The file is submitted with a note by Mr. Rama Rao.

I regret that the matter was apparently lost sight of so long.

Id/- C.S.

20-2-99

Submitted to 2nd Councillor as personally desired at today's Council meeting. I find that in September 97, we called for complete information from the Inam Superintendent regarding all claims preferred under section 38 and that he sent us a list which we returned for revision and got back in April 98. I am trying to find out whether that correspondence will afford a clue to the action if any taken in the present case subsequent to the Dewan's minute of 16-7-97.

Id/- C.S.

21-2-99.

1. Before deciding whether it is desirable to resort to legislation in this matter, I should like to have full information regarding the number of claims preferred under proviso (3) of section 38 of the Land Revenue Code and the manner in which they have been disposed of.

2. If legislation is necessary it would be a very simple substitution of the words "before 31st December 1899" for "within 5 years of the passing of the Regulation" in Provisos 3 and 4 of the Section.

An alternative method is by "special new grants" in particular cases ascertained to require this remedy before a specified date.

We must have some finality.

The Legislative Department should study the question, regarding it as an urgent one and bring it forward before 31st March 99.

Id/- K.S.

24-2-99.

Assistant Secretary, Legislative Department, for needful.

Id/- C.S.

25-2-99.

An amendment of section 38 of the Land Revenue Code, amounting to an extension of the time within which claims to mineral rights could be preferred, cannot by itself operate to revive claims which have, before such extension, absolutely ceased to exist. It is necessary, in addition, to give retrospective effect to the amendment as from the date of the passing of the Code.

A draft Regulation as above, which recites fully in

the Preamble the reason for its enactment, is put up for approval.

If, on the other hand, the mode of relief preferred is a "special new grant", then there seems no necessity for resorting to legislation, the object aimed at being simply attained by a notification purporting to issue under orders of the Sovereign.

As section 38 of the Code requires that claims to mineral rights should be based in each case on the terms of a grant or other instrument in existence expressly transferring the right to the person in whose favor it is executed, it appears unnecessary to lay down any further qualification as to the persons to whom the concession will be shown.

Id/- K.S.C.

1-3-99.

CRO

Sir K. Seshadri Iyer had very strong opinions about it so much so that he appeared to feel that some measure of redress was necessary. December 1899 is gone and December 1900 is very near at hand. The extension of time is both equitable and necessary and December 1901 is not too long. It is not the question of grant to Sringeri alone and the question appears to be more comprehensive. Government does not loose by extending the time and limiting the investigation to the old lines. More I cannot say for obvious reasons.

Id/- P.N.K.

7-9-00.

Bring up at Bangalore.

Id/- V.P.M.

11-9-1900.

CRO

A Draft Regulation to extend the time within which claims to mineral rights could be validly preferred under the Mysore Land Revenue Code, 1888.

Preamble.

Whereas there is reason to believe that personshaving claims to a right to minerals under the terms of grants ~~of~~ or other instruments of transfer made or executed by the Government for the time being have , nevertheless, failed, from ignorance of the requirements of the law in this behalf, to prefer the same within fiveyears after the passing of the Mysore Land Revenue Code, 1888, and are in consequence liable to forfeit the same as having been barred by limitation; and whereas it is considered expedient to afford relief to such persons by extending the period within which claims as aforesaid could be validly preferred; Her Highness the Maharani Regent is pleased to enact as follows:-

Amendment of Section 38 of the Land Revenue Code.

1. Section 38 of the Mysore Land Revenue Code, 1888, shall be read as if, at the time that the said Code was enacted, the words "on or before the 31st day of December 1901" had been inserted in lieu of the words "within five years after the passing of this Regulation" in Provisos (3) and (4) thereof.

Id/- K.S.C.

1-3-99.

All the claims preferred within the time prescribed by section 38 have been enquired into and disposed of by the Superintendent Inam Settlements. The question, whether there should be the proposed legislation, which is apparently intended to extend the time in the case of Sringeri Mutt alone, has to be decided by Council.

Circulate and place before Council.

Id/- T.R.A.T. 19-8-99

Placed before the Council & adjourned Sine Die — 15.9.00.

21

Office - Do so please.

Id/- C.S.

20-8-1900.